

# **EXHIBIT 6**

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK  
4 1:18-CV-05775-ERK-CLP

5 -----x  
6  
7 STAR AUTO SALES OF BAYSIDE, INC.  
8 (d/b/a STAR TOYOTA OF BAYSIDE), STAR  
9 AUTO SALES OF QUEENS, LLC (d/b/a STAR  
10 SUBARU), STAR HYUNDAI LLC (d/b/a  
11 STAR HYUNDAI), STAR NISSAN, INC. (d/b/a  
12 STAR NISSAN), METRO CHRYSLER  
13 PLYMOUTH INC. (d/b/a STAR CHRYSLER  
14 JEEP DODGE), STAR AUTO SALES OF  
15 QUEENS COUNTY LLC (d/b/a STAR FIAT)  
16 And STAR AUTO SALES OF QUEENS  
17 VILLAGE LLC (d/b/a STAR MITSUBISHI),

18 Plaintiffs,

19 v. DAY 1

20 VOYNOW, BAYARD, WHYTE AND COMPANY, LLP,  
21 HUGH WHYTE, RANDALL FRANZEN AND ROBERT  
22 SEIBEL.

23 Defendants.

24 -----x  
25 2000 Market Street  
Philadelphia, Pennsylvania

February 1, 2023  
10:38 a.m.

26 DEPOSITION of JACQUELINE CUTILLO, a  
27 30(b)(6) witness of Star Nissan, held at the  
28 above-entitled time and place, taken before  
29 Carolyn Crescio, a Professional Shorthand  
30 Reporter and Notary Public of the State of  
31 Pennsylvania.  
32 Job No. CS5681760

1 J. CUTILLO

2 statement always matched, if I'm using the right  
3 terminology?

4 A. Okay. Dollar amount-wise, yes, it  
5 matched. Not the information based on that.

6 Q. And on this AmEx scheme, on what  
7 basis is the corporation contending that Voynow  
8 is responsible for this 365,000 plus \$2,600  
9 that's alleged to be part of the scheme?

10 MR. LABUDA: Objection, but you  
11 can answer the question.

12 A. I mean, I can defer that to the  
13 expert, but if you would like my personal  
14 opinion...

15 Q. I would like your position as the  
16 company representative, as far as the basis for  
17 the corporation's claims against my client as  
18 part of this scheme.

19 A. So you want my opinion on behalf of  
20 the corporation?

21 Q. Whether it's your opinion, or  
22 whether it's your facts, whatever the answer is.

23 A. All right. So it's my opinion that  
24 Voynow would have been able to identify it based  
25 off of the accounts receivable to the credit

1 J. CUTILLO

2 cards, as well as being responsible to look at  
3 and review the parts statement every time they  
4 came.

5 Q. Say the first part of that answer  
6 again?

7 A. They would review the credit card  
8 receivable schedules when they'd come, as well  
9 as reviewing the parts statements.

10 Q. Anything else?

11 A. No.

12 Q. All right. Moving on.

13 The next scheme that's part of this chart  
14 is what's labeled as the "reversed-deposit  
15 scheme." And the company alleges that took  
16 place from February 20th of 2013 to April 19th  
17 of 2016. Correct?

18 A. Correct.

19 Q. And the company alleges that  
20 Ms. Jones stole allegedly \$319,150.98.

21 A. Correct.

22 Q. And according to the company,  
23 Ms. Jones stole bonus money paid by NMAC to Star  
24 Nissan, that was issued via a quarterly credit  
25 on its monthly parts statement invoice, by first

1 J. CUTILLO

2 A. That is correct.

3 Q. Who discovered this scheme?

4 A. I did.

5 Q. When did you discover it?

6 A. I initially questioned the entries  
7 on the commission schedules when I took over  
8 doing commissions for Star Toyota. Because I  
9 wasn't the one that was applying that entry onto  
10 my schedule. And when Voynow came to the  
11 office, after I had just started doing  
12 commissions, I questioned Randy about that  
13 entry, and Randy's response to me was, That's  
14 Vivian's, don't worry about it. So it always  
15 stuck in my head.

16 And when Mike K asked me if there was  
17 anything that strikes me as odd during my  
18 working in the office, after Vivian was  
19 terminated, I brought up to him that there was  
20 these PTSN entries constantly being put on my  
21 commission schedule, that I had no knowledge of  
22 or why they were there.

23 Q. Okay. So you said that you  
24 initially discovered it when you took over  
25 working on Toyota's commission schedules?

1 J. CUTILLO

2 A. I took over the position of posting  
3 deals and generating commissions.

4 Q. And when did you take over that  
5 responsibility?

6 A. End of 2014, beginning of 2015.

7 Q. What had you done before that?

8 A. Building and DMV.

9 Q. For which company?

10 A. I did DMV for Star Nissan and Star  
11 Subaru, and I did building for Star Nissan, Star  
12 Subaru, Star Toyota, and Star Hyundai.

13 Q. Okay. So at some point at the end  
14 of 2014, the beginning of 2015, you said that  
15 you had a conversation with Randy, correct?

16 A. Correct.

17 Q. And what was it specifically on the  
18 commission schedule that caused you to have a  
19 conversation with Brandy?

20 A. Because I generated commissions on  
21 that schedule under individuals' names, which is  
22 how that schedule is utilized, and an employee's  
23 name and an employee's corresponding number.

24 And there was entries on my schedule monthly  
25 with codes, control numbers, PTSN, and numbers